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## Commencement Day Address

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# COMMENCEMENT DAY ADDRESS

*By Art Buchwald\**

My Fellow Americans,

Or as we're going to be saying for the next four years—How y'all? It is a great honor for me to address the graduating class of Catholic Law School of 130 men and 85 persons. You couldn't have selected a better person to be your commencement speaker today.

I am no stranger to the bar.<sup>1</sup> I first became interested in the law when I was working in Paris for the Herald Tribune, and I covered a trial which had to do with a couple caught in a very compromising situation in a Volkswagen. Now everyone in France was interested in the case because it had to do with such a small car. The defense lawyer argued it was impossible to do what the couple had been accused of doing in a Volkswagen. The judge said he didn't know if this was true or not so he appointed a commission to study it. It took them six months to render their verdict and they said "it was possible but very difficult."

What does a speaker say to a fresh-faced, well-scrubbed graduating class of neophyte lawyers? Your studies are over and now you will leave these hallowed halls, this ivy-covered campus to go out and practice the second oldest profession in the world.<sup>2</sup>

It is an honorable calling that you have chosen. Some of you will soon be defending poor, helpless insurance companies who are constantly being sued by greedy widows and orphans trying to collect on their policies.<sup>3</sup> Others will work tirelessly to protect frightened, beleaguered

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\* This address was delivered as the Commencement Day Address at the Columbus School of Law, Catholic University of America on May 7, 1977. The text, though not the footnotes, appears substantially as delivered.

1. Cf. *In re Buchwald*, 133 F. Supp. 880 (S.D.N.Y. 1955) (bankruptcy proceeding). The author wishes to assure his creditors that he is not the unfortunate subject of this case. His acknowledged experiences with the bar are limited to matters discussed in the text.

2. See *John* 8:1; *Leviticus* 19:29.

3. See, e.g., *Grand Legion of Selected Knights v. Korneman*, 10 Kan. 577, 63 P. 292 (1901) (insurance company alleged, pursuant to "suicide clause" barring recovery for self-inflicted death, that it was not liable on policy of deceased who accidentally drowned while swimming, thereby dying from his own acts).

oil companies who are being attacked by wicked and depraved antitrust officials.<sup>4</sup> A few of you will devote your lives to suing doctors,<sup>5</sup> while many of you will choose to sue the patients.<sup>6</sup> As lawyers you will see to it that whether you represent General Motors,<sup>7</sup> Coca-Cola,<sup>8</sup> or the telephone company,<sup>9</sup> the little fellow will get his day in court.

There are some of you who have chosen to go into criminal law—which I must admit is getting harder and harder to distinguish from civil law. To you I say, this, too, is an honorable undertaking—only if you keep one thing in mind, and that is to always get your fee in advance.<sup>10</sup> No matter how hard you defended him, a convicted criminal is the most reluctant of all clients to pay the lawyer after the jury has returned a verdict of guilty.

This great government of ours has made the law profession the growth industry of America. Every time a new regulation is issued, a new law is passed, and an old law is repealed, fifty thousand lawyers are needed to explain it. Just one amendment to the IRS Code<sup>11</sup> will give every lawyer in this country enough work to last him thirteen years. One memorandum from the Food and Drug Administration<sup>12</sup> will provide enough litigation

4. *Standard Oil Co. v. United States*, 221 U.S. 1 (1911) (suit brought under § 2 of Sherman Act to dissolve alleged monopoly).

5. *See, e.g., Burke v. Washington Hosp. Center*, 475 F.2d 364 (D.C. Cir. 1973) (sponge left inside patient).

6. *See, e.g., Whitesell v. Hill*, 101 Iowa 629, 70 N.W. 750 (1897) (physician may recover for services even though mistaken in his treatment).

7. It appears that this particular client offers great opportunities for the aspiring attorney. *See, e.g., Center for Auto Safety v. General Motors Corp.*, Cir. No. 77-706 (N.D. Ohio, filed June 29, 1977) (defendant placed Chevrolet engines in Oldsmobiles). *See also, Larsen v. General Motors Corp.*, 391 F.2d 495 (8th Cir. 1968) (the continuing saga of the Corvair); *Henningsen v. Bloomfield Motors, Inc.*, 32 N.J. 358, 161 A.2d 69 (1960) (seller liable for crash caused by defective steering wheel); *MacPherson v. Buick*, 217 N.Y. 382, 111 N.E. 1050 (1916) (manufacturer liable for crash caused by collapse of automobile).

8. It's the real thing. *See Crystal Coca-Cola Bottling Co. v. Cathey*, 83 Ariz. 163, 317 P.2d 1094 (1957) (fly in bottle); *Oklahoma Coca-Cola Bottling Co. v. Dillard*, 208 Okla. 126, 253 P.2d 847 (1953) (roach in bottle); *Hope Coca-Cola Bottling Co. v. Jones*, 222 Ark. 52, 257 S.W.2d 272 (1953) (mouse in bottle); *Ada Coca-Cola Bottling Co. v. Asbury*, 206 Okla. 269, 242 P.2d 417 (1952) (glass in bottle); *Smith v. Coca-Cola Bottling Co.* 152 Pa. Super. Ct. 445, 33 A.2d 488 (1943) (spider in bottle). *See also Honea v. Coca-Cola Bottling Co.*, 143 Tex. 272, 183 S.W.2d 968 (1944); *Escola v. Coca-Cola Bottling Co.*, 24 Cal. 2d 453, 150 P.2d 436 (1944) (exploding bottles).

9. *See, e.g., Gandy v. Southwestern Bell Tel. Co.*, 341 S.W.2d 554 (Tex. Ct. App. 1960) (consumer brought suit against defendant telephone company to recover for paralysis caused by electrical shock from telephone).

10. *Cf. ABA CODE OF PROFESSIONAL RESPONSIBILITY*, DR 2-106C (1971) (contingent fees may not be accepted in criminal cases).

11. *See* 26 U.S.C. § 1 (1970 & Supp. V 1975).

12. *See, e.g.,* 21 C.F.R. §§ 1.1-1316.81 (1977) (Food & Drug Regulations).

to feed your families for the rest of your lives. Our country looks kindly on lawyers. Our government hires them to make the rules. Then the private sector is forced to hire lawyers to find ways of breaking them.<sup>13</sup>

The beauty of the law is that the more complicated lawmakers make it, the more work it generates for other lawyers.<sup>14</sup> Had the Ten Commandments been written by a government lawyer, Moses could never have carried them on a stone tablet.<sup>15</sup> He would have had to haul them down from Mount Sinai on the Rock of Gibraltar. And if you ever get discouraged, remember this: even if the meek do inherit the earth,<sup>16</sup> some lawyer will have to probate the will.

I am not trying to give you the impression that your life will be all milk and Gulf Oil. The fact of the matter is that the legal profession faces many problems these days. According to a recent survey, lawyers rated lower than garbage collectors in the public's esteem. Now I think this is an unfair image. I know many lawyers who would make good garbage collectors—but I don't know one garbage collector who would make a good lawyer.

Another problem you face is that you will soon be forced to advertise.<sup>17</sup> This is an anathema to most lawyers, but it's coming and there is no sense fighting it. I think if you have to advertise you should put most of your money into television. I have been working on some TV commercials which might be appropriate. One, which I already have in script form, would show a nattily-dressed man standing in front of the Atlanta Federal Prison. He would say, "Hi. I used to be a Vice President of Lockheed Aircraft. I'd be inside these gates now if it hadn't been for Covington & Burling. If you have committed a white-collar crime—or are thinking of committing one, call this toll free number: 800-367-2345. We have a special sale this week on income tax fraud<sup>18</sup> and SEC violations.<sup>19</sup> Don't delay. Had the men inside this prison called Covington & Burling they would be standing out here with me today."<sup>20</sup>

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13. ABA CODE OF PROFESSIONAL RESPONSIBILITY, EC 7-3 (1971) states "while serving as advocate, a lawyer should resolve in favor of his client doubts as to the bounds of the law." ABA COMM. ON ETHICS AND PROFESSIONAL RESPONSIBILITY, OPINION No. 280 (1949) notes that "[t]he lawyer . . . is not an umpire, but an advocate. . . . His personal belief in the soundness of his cause or of the authorities supporting it, is irrelevant."

14. *See Trans World Airlines, Inc. v. Hughes*, 449 F.2d 51 (2d Cir. 1971) (award of \$7.5 million in fees to antitrust attorneys is not excessive).

15. *See Exodus* 34:4.

16. *See Matthew* 5:4.

17. *See Bates v. Arizona State Bar*, 97 S. Ct. 2691 (1977).

18. *See* 26 U.S.C. § 6653 (1970 & Supp. V 1975).

19. *See* 15 U.S.C. § 78a (1970).

20. For a full discussion of the power and influence of Washington lawyers, see M. GREEN, *THE OTHER GOVERNMENT* (1975).

Speaking of television, I believe that TV has given a very distorted picture of what a lawyer's life is really like. Take a Perry Mason episode. A little old lady comes in to see Perry and says her son has been arrested for a murder he didn't commit. Without discussing a fee, Perry says he'll take the case, orders his secretary not to accept any further calls and tells his private investigator to spend day and night finding out who did the dastardly deed. Usually the true culprit gives himself up just as the jury is filing out of the courtroom to find Perry's client guilty.

But in real life it's not like that. First, the chances of a little old lady getting in to see Perry Mason would be nil. But if she did get in, the conversation would go something like this.

The mother tells Perry, "My son is accused of murder, but he didn't do it."

Perry replies, "Every mother says that."

"But he didn't do it. He was at an Alice Cooper concert at the time."

"Can you prove it?"

"Yes. He tore off a piece of Cooper's skirt after the concert."

"Okay," says Perry. "I'll call up the D.A. and have him knock the charges down to second-degree manslaughter."

"But he's innocent," the mother says.

"Look, do you want to make a deal with the D.A. or don't you?"

"But my boy is innocent. I thought you'd take it to trial."

"Trials cost money," Perry says, "your son would be better off copping a plea. It will save us all a lot of time."

I am not here today just to talk to you about the law. And I have not come here today to bring you a message of doom. I have been studying the situation, and have come to the conclusion that the class of 1977 is the luckiest law class that ever graduated—and probably the last.

A few weeks ago President Carter told you that we are running out of oil and gas.<sup>21</sup> This will require all of you to change your lifestyles. The American dream of owning the biggest car on the block has been shattered. I know many of you are bitter at our generation for using up all our oil reserves. But I would like to remind you it was *our* oil and *our* gas and we could do anything with it we wanted to. Your generation has to find its own oil and own gas reserves. I could make it easy on you because I know where the oil is, but I'm not going to tell you because our generation wants you to go out and find it for yourselves.

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21. See *At the Grass Roots, A Rush to Save Fuel*, U.S. NEWS & WORLD REP., May 2, 1977 at 17.

You are the generation of Watergate<sup>22</sup> and swine flu.<sup>23</sup> You were raised on Star Trek and Kojak. Walter Cronkite is your godfather, and Nixon was your president.<sup>24</sup> You flopped at streaking and you blew Earth Day, and you've seen war live and in color on television, and one of your presidents said he was not a crook. Yet, I don't feel sorry for you. To quote what I told President Carter the other day, "We never promised you a rose garden."

The tendency today in this country is to wring our hands and say everything is rotten, but I don't feel that way. I am basically an optimist—otherwise I would never fly Allegheny Airlines.<sup>25</sup> I don't know if this is the best of times or the worst of times, but I can assure you of this: this is the only time you've got—and you can either sit on your *expletive deleted*<sup>26</sup> or go out and pick a daisy.

Now we seem to be going through a period of nostalgia and everyone seems to think yesterday was better than today. I personally don't think it was, and I would advise you not to wait ten years from now before admitting today was great. If you're hung up on nostalgia, pretend today is yesterday, and just go out and have one hell of a time.

You know, if you were looking for a name for this country right now, you'd have to call it the uptight society. Everyone seems uptight about something. The white students want out of our system;<sup>27</sup> the black

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22. See, e.g., *United States v. Nixon*, 418 U.S. 683 (1974) (a president's generalized interest in confidentiality cannot prevail over the fundamental demands of due process); see also, *United States v. Mardian*, 546 F.2d 973 (D.C. Cir. 1976); *United States v. Barker*, 546 F.2d 940 (D.C. Cir. 1976); *United States v. Ehrlichmann*, 546 F.2d 910 (D.C. Cir. 1976), *cert. denied*, 429 U.S. 1120 (1977); *United States v. Mitchell*, 410 F. Supp. 1201 (D.D.C. 1976), *cert. denied*, 97 S. Ct. 2641 (1977); 397 F. Supp. 182 (D.D.C. 1974); 397 F. Supp. 166 (D.D.C. 1974); 389 F. Supp. 917 (D.D.C. 1975); 385 F. Supp. 1190 (D.D.C. 1974); 385 F. Supp. 161 (D.D.C. 1974); 384 F. Supp. 564 (D.D.C. 1974); 377 F. Supp. 1326 (D.D.C.), *aff'd*, 418 U.S. 683 (1974); 377 F. Supp. 1312 (D.D.C.), *aff'd*, 502 F.2d 375 (D.C. Cir.), *cert. denied*, 418 U.S. 955 (1974).

23. See *War Against Swine Flu*, TIME, Apr. 5, 1976 at 50.

24. See note 22 *supra*.

25. See, e.g., *Nader v. Allegheny Airlines, Inc.*, 426 U.S. 290 (1976) (overbooking); *Feldman v. Allegheny Airlines, Inc.*, 524 F.2d 384 (2d Cir. 1975) (air collision); *Kohr v. Allegheny Airlines, Inc.*, 504 F.2d 400 (7th Cir. 1974), *cert. denied*, 421 U.S. 978 (1975) (air collision); *Allegheny Airlines, Inc. v. United States*, 504 F.2d 104 (7th Cir. 1974), *cert. denied*, 421 U.S. 978 (1975) (air collision); *Perry v. Allegheny Airlines, Inc.*, 489 F.2d 1349 (2d Cir. 1974) (wrongful death); *Kinsling v. Allegheny Airlines, Inc.*, 489 F.2d 461 (9th Cir. 1973) (overcharge).

26. See, e.g., *In re Subpoena to Nixon*, 360 F. Supp. 1 (D.D.C. 1973), *modified*, 487 F.2d 700 (D.C. Cir. 1973).

27. See *Fein v. Selective Service Sys. Bd. No. 7*, 405 U.S. 365 (1972); *Oestereich v. Selective Service Sys. Local Bd. No. 11*, 393 U.S. 233 (1968); but see *DeFunis v. Odegaard*, 416 U.S. 312 (1974); *Regents of California v. Bakke*, 18 Cal. 3d 34, 553 P.2d 1152, 132 Cal. Rptr. 680 (1976), *cert. granted*, 429 U.S. 1090 (1977), oral argument summarized at 46 U.S.L.W. 3249 (Oct. 18, 1977).

students want in;<sup>28</sup> the people are mad at the cops;<sup>29</sup> and the priests aren't talking to the Cardinals.<sup>30</sup> And doing the column the way I do, I discovered that for every uptight person in this country, there's an uptight organization to back him up. And I discovered that the most uptight organization in this country right now is the National Rifle Association. Now before you get to like me, I am for gun registration, and it's very personal with me. My neighbor has a gun, and he can't even water his lawn straight. But every time I do an article for gun registration, I get hundreds of letters, all neatly typewritten, telling me I'm trying to destroy the Constitution.<sup>31</sup> And I discovered that everybody in this country who owns a gun also owns a typewriter. So my solution to the gun registration problem is to make everybody register his typewriter. People are very uptight about pornography and what it is doing to all our lives. Now I'll be very honest with you. I have always wanted to write a pornographic book. But I get so excited doing the research that I can never get around to the book.

People are very uptight about computers and what they are doing to all our lives. I have always had a great interest in computers ever since I tried to get out of the Book-of-the-Month Club. Now as you know, it is impossible to get out of the Book-of-the-Month Club. I kept sending them letters saying I didn't want their damned books and they kept sending me IBM cards billing me for the books. I finally got so mad that I bent, folded, and mutilated the card. But the next month I got a new card and it said, "If you do that once more we will send you an entire *Encyclopedia Britannica*."

People are very uptight about the oil embargo and everybody blames someone else for our troubles in the Middle East. Well, I can tell you who the real villains are. The organization that is responsible for all our troubles in the Middle East is the Harvard Business School. If they hadn't taught the sons of Arab sheiks how to screw us, oil would now be

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28. See, e.g., *Brown v. Board of Educ.*, 347 U.S. 483 (1954); cf. *Southern Illinois Builder's Ass'n v. Ogilvie*, 471 F.2d 680 (7th Cir. 1972) (affirmative action plan for recruitment, training, and placement of minority group members in highway construction industry held not violative of the Constitution).

29. See, e.g., *Washington Mobilization Comm. v. Cullinane*, 400 F. Supp. 186 (D.D.C. 1975), *rev'd* No. 75-2010 (D.C. Cir., Apr. 12, 1977) (suit by antiwar demonstrators against Washington D.C. Metropolitan Police for alleged violation of their civil rights during mass arrests).

30. See *Granfield v. Catholic Univ. of America*, 365 F. Supp. 147 (D.D.C. 1973), *aff'd*, 530 F.2d 1035 (D.C. Cir.), *cert. denied*, 429 U.S. 821 (1976); *Broderick v. Catholic Univ. of America*, 365 F. Supp. 147 (D.D.C. 1973), *aff'd*, 530 F.2d 1035 (D.C. Cir.), *cert. denied*, 429 U.S. 821 (1976) (suit by priests employed as law professors to establish wage parity with lay law professors).

31. U.S. CONST. amend. II.

\$3.00 a barrel. And if these same sons of sheiks had gone to UCLA, they'd all be surfers now.

People are very uptight about students and where they're going and what they're up to. But I have a lot of faith in students because I speak on campuses, and they've got their heads together and are thinking right. Not long ago I was on this campus, and I was talking to a student who was majoring in English and we got to discussing *Hamlet*. And I said, "Suppose you were a Prince of Denmark and you came back from school to discover your uncle had murdered your father and married your mother, and you fell in love with a beautiful girl named Ophelia and mistakenly murdered her father, and then Ophelia went crazy and drowned in a brook. What would you do?" And he thought about it for a moment and then said, "I guess I'd go for my Master's degree."

My final message to you today is that no matter what you read in the newspapers or see on television, I assure you that we're all going to make it. For two hundred years this country has muddled through one crisis after another, and we have done it without changing our form of government. And it seems like centuries, but it was only three years ago that a president of the United States was forced to resign from office under the darkest of clouds, and he was asked to leave the office because he lied to the American people. I was at the White House that night to hear his resignation speech. What impressed me more than anything else was that while one leader of our country was resigning and another was taking his place, I did not see one tank or one helmeted soldier in the street, and the only uniforms I saw that night were on two motorcycle policemen who were directing traffic on Pennsylvania Avenue. Two hundred million people were able to change presidents overnight without one bayonet being unsheathed. And I believe that any country in the world that can still do that can't be all bad.

Now I could have said something very profound today, but you would have forgotten it in ten minutes; so I chose to give this kind of speech instead so that in twenty years from now when your children ask you what you did on graduation day, you can proudly say, "I laughed."

Thank you and God bless you.



